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United States General Accounting Office
Washington, DC 20548

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December 12, 2000

The Honorable Robert C. Smith
Chairman
The Honorable Max Baucus
Ranking Minority Member
Committee on Environment and Public Works
United States Senate

The Honorable Thomas J. Bliley, Jr.
Chairman
The Honorable John D. Dingell
Ranking Minority Member
Committee on Commerce
House of Representatives

Subject: Environmental Protection Agency: Protection of Stratospheric Ozone:
Incorporation of Clean Air Act Amendments for Reductions in Class I,
Group VI Controlled Substances

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Environmental Protection Agency, entitled "Protection of Stratospheric Ozone: Incorporation of Clean Air Act Amendments for Reductions in Class I, Group VI Controlled Substances" (RIN: 2060-AI41). We received the rule on November 21, 2000. It was published in the Federal Register as a direct final rule on November 28, 2000. 65 Fed. Reg. 70795.

The direct final rule contains the accelerated phaseout regulations that govern the production, import, export, transformation, and destruction of substances that deplete the ozone layer under the authority of Title VI of the Clean Air Act Amendments of 1990.

Enclosed is our assessment of the EPA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that EPA complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO

evaluation work relating to the subject matter of the rule is Bob Robinson, Managing Director, Natural Resources and Environment. Mr. Robinson can be reached at (202) 512-3841.

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Jay Benforado
Deputy Associate Administrator
Environmental Protection Agency

ENCLOSURE

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
ENVIRONMENTAL PROTECTION AGENCY
ENTITLED
"PROTECTION OF STRATOSPHERIC OZONE:
INCORPORATION OF CLEAN AIR ACT AMENDMENTS FOR
REDUCTIONS IN CLASS I, GROUP VI CONTROLLED SUBSTANCES"
(RIN: 2060-AI41)

(i) Cost-benefit analysis

In 1993, EPA, in preparation for the rule that established the original 2001 phaseout for methyl bromide, prepared a Cost Effectiveness Analysis. For the instant rule, EPA conducted a Regulatory Impact Analysis (RIA) as an update to the 1993 analysis and a subsequent 1999 addendum.

EPA states that the RIA was not issued as a basis for deciding on phasedown and phaseout percentages and dates. The dates were dictated by the Montreal Protocol and the Clean Air Act.

The original assessment, adjusted for 1998 dollars, is \$159 million. The results of the updated analysis, which will be issued with the upcoming proposed rule addressing quarantine and preshipment, is expected to indicate that extending the deadline will result in cost savings.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Administrator of EPA has certified that the rule will not have a significant economic impact on a substantial number of small entities since the rule regulates large multi-national corporations.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As defined in title II, the rule contains a mandate on the private sector of more than \$100 million in any one year. However, according to EPA, as the rule implements mandates specifically set forth by Congress in section 604(h) of the Clean Air Act, there were no regulatory alternatives to consider under section 205 of the Unfunded Mandates Reform Act of 1995.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The direct final rule is issued by EPA without using notice and comment including the issuance of a proposed rule because EPA views the revisions, directly mandated by the statutory language, as noncontroversial. EPA expects no adverse comments. However, if it receives adverse comments by December 28, 2000, the direct final rule will be withdrawn and the comments received will be addressed in connection with a proposed rulemaking published November 28, 2000, in the Federal Register. 65 Fed. Reg. 70825.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The rule does not contain any information collections that the Office of Management and Budget has not already approved in connection with prior rulemakings.

Statutory authorization for the rule

The rule is promulgated under the authority contained in 42 U.S.C. 7414, 7601, 7671-7671q and section 604(h) of the Clean Air Act, as added by section 764 of the 1999 Omnibus Consolidated Emergency Supplemental Appropriations Act (Public Law No. 105-277).

Executive Order No. 12866

The rule was reviewed by the Office of Management and Budget and found to be an “economically significant” regulatory action under the order.

Executive Order No. 13132 (Federalism)

EPA has reviewed the rule under the order and found that it does not have federalism implications.